

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GREENFIELD FRESH, INC.,

Plaintiff,

v.

BERTI PRODUCE-OAKLAND, INC., et al.,

Defendants.

Case No. [14-cv-01096-JSC](#)

**ORDER REGARDING CONSENT FOR
STIPULATION OF DISMISSAL**


The Court is in receipt of a stipulation of dismissal with prejudice of individual defendants Mah and Chow. The stipulation seeks the Court's signature. As a Magistrate Judge, the Court cannot issue dispositive orders, such as stipulations of dismissal, without the consent of all parties. 28 U.S.C. § 636(c). Plaintiff and Defendant Mah have consented to the jurisdiction of a magistrate judge. (Dkt. Nos. 10, 11.) Defendant Chow has not made an appearance in the case and thus has not consented. Accordingly, defendant Chow must sign a form consenting to the jurisdiction of a magistrate judge. For the parties' convenience, the consent/declination form is attached.

Defendant Berti Produce-Oakland, Inc. has not made an appearance, settled, nor filed a consent and its default has been entered. As it is a corporation, it can only appear in this action through an attorney. *See D-Beam Ltd. Partnership v. Roller Derby Skates, Inc.*, 366 F.3d 972, 973 (9th Cir. 2004). The Court can sever Berti-Produce Oakland, Inc. into a separate action so its consent is not required for issuance of the dismissal of the other parties. If Berti-Produce Oakland, Inc. continues not to appear and a default judgment is entered, the Court can issue the default judgment as a Report and Recommendation to a district court judge since presumably it will not have consented to magistrate judge jurisdiction.

1 Accordingly, on or before Tuesday, September 23, 2014, Plaintiff and Defendant Mah—
2 the parties with appearances in this action—shall advise the Court whether they agree to sever the
3 claims against Berti-Produce Oakland, Inc. into a separate action to remain with this magistrate
4 judge. Upon the severance and the filing (if any) of Chow's consent to magistrate judge
5 jurisdiction, the Court will sign the submitted stipulation of dismissal.

6 **IT IS SO ORDERED.**

7 Dated: September 18, 2014

8 
9 JACQUELINE SCOTT CORLEY
United States Magistrate Judge

United States District Court
Northern District of California